

# SENATE BILL 641

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By: **Senator Benson**

Introduced and read first time: February 4, 2011

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Polysomnography – Technologists and Technicians – Licensing**  
3 **Requirements**

4 FOR the purpose of establishing a polysomnographic technician license; requiring the  
5 State Board of Physicians to set certain fees regarding the licensing of  
6 polysomnographic technicians; altering the duties of the Polysomnography  
7 Professional Standards Committee; altering certain education requirements to  
8 qualify for a polysomnographic technologist license; providing for the  
9 qualifications for a polysomnographic technician license; requiring the Board to  
10 waive certain education requirements for certain applicants for a  
11 polysomnographic technologist license under certain circumstances; providing  
12 that a certain applicant who qualified for a polysomnographic technician license  
13 under certain circumstances is entitled to be licensed for a single term under  
14 certain circumstances; providing for the scope of a license to practice  
15 polysomnography as a polysomnographic technician; prohibiting the Board from  
16 renewing the license of a polysomnographic technician; prohibiting a licensed  
17 polysomnographic technician from surrendering or allowing a license to lapse  
18 under certain circumstances; defining certain terms; making certain conforming  
19 changes; and generally relating to licensing requirements for polysomnographic  
20 technologists and technicians.

21 BY repealing and reenacting, with amendments,  
22 Article – Health Occupations  
23 Section 14–5C–01, 14–5C–04, 14–5C–07, 14–5C–09, 14–5C–13, 14–5C–14,  
24 14–5C–16, and 14–5C–18  
25 Annotated Code of Maryland  
26 (2009 Replacement Volume and 2010 Supplement)

27 BY adding to  
28 Article – Health Occupations  
29 Section 14–5C–10.1 and 14–5C–10.2

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2009 Replacement Volume and 2010 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Health Occupations**

6 14–5C–01.

7 (a) In this subtitle the following words have the meanings indicated.

8 (b) “Board” means the State Board of Physicians.

9 (c) **“CERTIFIED POLYSOMNOGRAPHIC TECHNICIAN” MEANS A**  
10 **POLYSOMNOGRAPHIC TECHNICIAN WHO IS CERTIFICATED BY THE BOARD OF**  
11 **REGISTERED POLYSOMNOGRAPHIC TECHNICIANS.**

12 [(c)] (D) “Committee” means the Polysomnography Professional Standards  
13 Committee established under § 14–5C–05 of this subtitle.

14 [(d)] (E) “License” means a license issued by the Board.

15 (F) **“LICENSED POLYSOMNOGRAPHIC TECHNICIAN” MEANS A**  
16 **POLYSOMNOGRAPHIC TECHNICIAN WHO IS LICENSED BY THE BOARD UNDER**  
17 **THIS SUBTITLE TO PRACTICE POLYSOMNOGRAPHY UNDER THE SUPERVISION OF**  
18 **A LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST AND A LICENSED PHYSICIAN.**

19 [(e)] (G) “Licensed polysomnographic technologist” means a  
20 polysomnographic technologist who is licensed by the Board under this subtitle to  
21 practice polysomnography under the supervision of a licensed physician.

22 [(f)] (H) (1) “Practice polysomnography” means:

23 (i) Monitoring and recording physiologic data during sleep,  
24 including sleep–related respiratory disturbances under the supervision of a licensed  
25 physician; or

26 (ii) Using data collected under item (i) of this paragraph for the  
27 purposes of assisting a licensed physician in the diagnosis and treatment of sleep and  
28 wake disorders.

29 (2) “Practice polysomnography” includes:

30 (i) Providing polysomnography services that are safe, aseptic,  
31 preventive, and restorative;

1 (ii) Diagnosing and treating individuals who suffer from sleep  
2 disorders as a result of developmental defects, the aging process, physical injury,  
3 disease, or actual or anticipated somatic dysfunction;

4 (iii) Observing and monitoring physical signs and symptoms,  
5 general behavior, and general physical response to polysomnographic evaluation and  
6 determining whether initiation, modification, or discontinuation of a treatment  
7 regimen is warranted;

8 (iv) Using evaluation techniques that include limited  
9 cardiopulmonary function assessments, the need and effectiveness of therapeutic  
10 modalities and procedures, and the assessment and evaluation of the need for  
11 extended care; and

12 (v) Applying the use of techniques, equipment, and procedures  
13 involved in the evaluation of polysomnography, including:

14 1. Continuous positive airway pressure or bi-level  
15 positive airway pressure titration on spontaneously breathing patients;

16 2. Supplemental low flow oxygen therapy during  
17 polysomnogram;

18 3. Capnography during polysomnogram;

19 4. Cardiopulmonary resuscitation;

20 5. Pulse oximetry;

21 6. PH probe placement and monitoring;

22 7. Esophageal pressure;

23 8. Sleep staging including surface  
24 electroencephalography, surface electrooculography, and surface submental  
25 electromyography;

26 9. Surface electromyography of arms and legs;

27 10. Electrocardiography;

28 11. Respiratory effort including thoracic and abdominal;

29 12. Plethysmography blood flow;

30 13. Snore monitoring;

31 14. Audio or video monitoring;

1                   15. Implementation of a written or verbal order from a  
2 licensed physician that requires the practice of polysomnography;

3                   16. Monitoring the effects a nasal device, used to treat  
4 sleep apnea, has on sleep patterns provided that the device does not extend into the  
5 trachea; and

6                   17. Monitoring the effects an oral device, used to treat  
7 sleep apnea, has on sleep patterns, provided that:

8                   A. The device does not extend into the trachea;

9                   B. A dentist has evaluated the structures of the patient's  
10 oral and maxillofacial region for purposes of fitting;

11                  C. A dentist made or directed the making of the oral  
12 device; and

13                  D. A dentist directs the use of the oral device.

14           **[(g)] (I)** "Student" means an individual who, in accordance with section  
15 14-5C-09(c) of this subtitle, is:

16                   (1) Enrolled in an accredited educational program in order to qualify  
17 for a license under this title; and

18                   (2) Performing polysomnography services within the accredited  
19 program under the supervision of a licensed physician and without compensation.

20           **[(h)] (J)** "Registered polysomnographic technologist" means a  
21 polysomnographic technologist who is registered by the Board of Registered  
22 Polysomnographic Technicians.

23           **[(i)] (K)** "Supervision" means general or direct supervision of:

24                   **(1) [a] A LICENSED POLYSOMNOGRAPHIC TECHNICIAN BY A**  
25 **licensed polysomnographic technologist [by] AND a licensed physician; OR**

26                   **(2) A LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST BY A**  
27 **LICENSED PHYSICIAN.**

28 14-5C-04.

29           (a) (1) The Board shall set reasonable fees for the issuance of and renewal  
30 of licenses and other services it provides to polysomnographic technologists **AND**  
31 **POLYSOMNOGRAPHIC TECHNICIANS.**

1           (2)    The fees charged shall be set so as to produce funds to approximate  
2 the cost of maintaining the licensure program and the other services provided to  
3 polysomnographic technologists **AND POLYSOMNOGRAPHIC TECHNICIANS**.

4           (b)    (1)    The Board shall pay all fees collected under the provisions of this  
5 subtitle to the Comptroller.

6                   (2)    The Comptroller shall distribute all fees to the Board.

7           (c)    The fees shall be used to cover the actual documented direct and indirect  
8 costs of fulfilling the statutory and regulatory duties of the Board as provided by the  
9 provisions of this subtitle.

10 14-5C-07.

11           In addition to the powers set forth elsewhere in this subtitle, the Committee  
12 shall:

13                   (1)    Develop and recommend to the Board regulations to carry out the  
14 provisions of this subtitle;

15                   (2)    Develop and recommend to the Board a code of ethics for the  
16 practice of polysomnography for adoption by the Board;

17                   (3)    Develop and recommend to the Board standards of care for the  
18 practice of polysomnography;

19                   (4)    Develop and recommend to the Board the requirements for  
20 licensure as a polysomnographic technologist **OR A POLYSOMNOGRAPHIC**  
21 **TECHNICIAN**, including:

22                           (i)    Criteria for the educational and clinical training of licensed  
23 polysomnographic technologists **AND POLYSOMNOGRAPHIC TECHNICIANS**; and

24                           (ii)   Criteria for a professional competency examination and  
25 testing of applicants for a license to practice polysomnography;

26                   (5)    Develop and recommend to the Board criteria for licensed  
27 polysomnographic technologists who are licensed in other states to practice in this  
28 State;

29                   (6)    Evaluate the accreditation status of education programs in  
30 polysomnography for approval by the Board;

31                   (7)    Evaluate the credentials of applicants and recommend licensure of  
32 applicants who fulfill the requirements for a license to practice polysomnography;

1 (8) Develop and recommend to the Board continuing education  
2 requirements for license renewal;

3 (9) Provide the Board with recommendations concerning the practice  
4 of polysomnography;

5 (10) Develop and recommend to the Board criteria for the direction of  
6 students in clinical education programs by licensed **POLYSOMNOGRAPHIC**  
7 **TECHNICIANS**, polysomnographic technologists, and licensed physicians;

8 (11) Keep a record of its proceedings; and

9 (12) Submit an annual report to the Board.

10 14-5C-09.

11 (a) To qualify for a license, an applicant shall be an individual who meets the  
12 requirements of this section.

13 (b) The applicant shall:

14 (1) Be of good moral character; and

15 (2) Be at least 18 years old.

16 (c) An applicant for a polysomnographic technologist license shall:

17 (1) Have passed the national certifying examination given by the  
18 Board of Registered Polysomnographic Technologists or another examination approved  
19 by the Board;

20 (2) Submit to the Board proof of certification as a registered  
21 polysomnographic technologist or other national certification approved by the Board;

22 (3) [(i) Have graduated from a polysomnographic educational  
23 program that is accredited by the Commission on Accreditation of Allied Health  
24 Education Programs;

25 (ii) 1. Have graduated from a respiratory care educational  
26 program that is accredited by the Commission on Accreditation of Allied Health  
27 Education Programs; and

28 2. Have completed the Committee on Accreditation for  
29 Respiratory Care's curriculum for a polysomnography certificate that is accredited by  
30 the Commission on Accreditation of Allied Health Education Programs; or

1 (iii) 1. Have graduated from an electroneuro–diagnostic  
2 educational program that is accredited by the Commission on Accreditation of Allied  
3 Health Education Programs; and

4 2. Have completed additional units, modules, and  
5 courses of instruction focused on polysomnographic technology that are accredited by  
6 the Commission on Accreditation of Allied Health Education Programs] **MEET THE**  
7 **EDUCATION REQUIREMENTS:**

8 (I) **ESTABLISHED BY THE COMMITTEE AND APPROVED BY**  
9 **THE BOARD; OR**

10 (II) **ESTABLISHED BY THE BOARD OF REGISTERED**  
11 **POLYSOMNOGRAPHIC TECHNOLOGISTS OR THE AMERICAN ACADEMY OF**  
12 **SLEEP MEDICINE AND APPROVED BY THE BOARD; and**

13 (4) Meet any other educational or clinical requirements established by  
14 the Committee and approved by the Board.

15 (D) **AN APPLICANT FOR A POLYSOMNOGRAPHIC TECHNICIAN LICENSE**  
16 **SHALL:**

17 (1) **QUALIFY TO TAKE OR HAVE PASSED THE NATIONAL**  
18 **EXAMINATION FOR CERTIFIED POLYSOMNOGRAPHIC TECHNICIANS GIVEN BY**  
19 **THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS;**

20 (2) **SUBMIT TO THE BOARD PROOF OF CERTIFICATION AS A**  
21 **CERTIFIED POLYSOMNOGRAPHIC TECHNICIAN OR OF ELIGIBILITY TO TAKE THE**  
22 **EXAMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND**

23 (3) **MEET ANY EDUCATIONAL OR CLINICAL REQUIREMENTS**  
24 **ESTABLISHED BY THE COMMITTEE AND APPROVED BY THE BOARD.**

25 **14–5C–10.1.**

26 (A) **SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD SHALL**  
27 **WAIVE THE EDUCATION REQUIREMENTS OF § 14–5C–09(C)(3) OF THIS SUBTITLE**  
28 **FOR AN APPLICANT FOR A POLYSOMNOGRAPHIC TECHNOLOGIST LICENSE WHO:**

29 (1) **RESIDES IN ANOTHER STATE;**

30 (2) **PASSED THE NATIONAL CERTIFYING EXAMINATION**  
31 **ADMINISTERED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC**  
32 **TECHNOLOGISTS; AND**

1           **(3) WAS CERTIFIED BY THE BOARD OF REGISTERED**  
2 **POLYSOMNOGRAPHIC TECHNOLOGISTS AS A REGISTERED POLYSOMNOGRAPHIC**  
3 **TECHNOLOGIST ON OR BEFORE OCTOBER 1, 2011.**

4           **(B) THE BOARD SHALL GRANT A WAIVER UNDER THIS SECTION ONLY IF**  
5 **THE APPLICANT:**

6           **(1) IS OF GOOD MORAL CHARACTER;**

7           **(2) PAYS THE APPLICATION FEE REQUIRED BY THE BOARD**  
8 **UNDER § 14-5C-11 OF THIS SUBTITLE; AND**

9           **(3) PROVIDES ADEQUATE EVIDENCE OF MEETING THE**  
10 **REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.**

11 **14-5C-10.2.**

12           **AN APPLICANT WHO IS OTHERWISE QUALIFIED FOR A LICENSE UNDER §**  
13 **14-5C-09(D) OF THIS SUBTITLE IS ENTITLED TO BE LICENSED FOR A SINGLE**  
14 **TERM DURING WHICH THE INDIVIDUAL IS REQUIRED TO WORK TOWARDS**  
15 **QUALIFYING FOR THE NATIONAL CERTIFYING EXAMINATION FOR REGISTERED**  
16 **POLYSOMNOGRAPHIC TECHNOLOGISTS GIVEN BY THE BOARD OF REGISTERED**  
17 **POLYSOMNOGRAPHIC TECHNOLOGISTS.**

18 **14-5C-13.**

19           **(a) (1) A license authorizes a polysomnographic technologist to practice**  
20 **polysomnography in this State while the license is effective.**

21           **(2) A LICENSE AUTHORIZES A POLYSOMNOGRAPHIC TECHNICIAN**  
22 **TO PRACTICE POLYSOMNOGRAPHY UNDER SUPERVISION IN THIS STATE WHILE**  
23 **THE LICENSE IS EFFECTIVE.**

24           **(b) A licensed polysomnographic technologist AND A LICENSED**  
25 **POLYSOMNOGRAPHIC TECHNICIAN may practice polysomnography in:**

26           **(1) A hospital sleep laboratory; or**

27           **(2) A stand-alone sleep center.**

28 **14-5C-14.**

29           **(a) A license expires on a date set by the Board, unless the license is renewed**  
30 **for an additional term as provided in this section.**

1 (b) At least 1 month before a license expires, the Board shall send to the  
2 licensed polysomnographic technologist, by first-class mail to the last known address  
3 of the licensed polysomnographic technologist, a renewal notice that states:

4 (1) The date on which the current license expires;

5 (2) The date by which the renewal application must be received by the  
6 Board for the renewal to be issued and mailed before the license expires; and

7 (3) The amount of the renewal fee.

8 (c) Except as otherwise provided in this subtitle, before a license expires, the  
9 licensed polysomnographic technologist periodically may renew it for an additional  
10 term, if the licensee:

11 (1) Otherwise is entitled to be licensed;

12 (2) Pays to the Board a renewal fee set by the Board; and

13 (3) Submits to the Board:

14 (i) A renewal application on the form that the Board requires;  
15 and

16 (ii) Satisfactory evidence of compliance with any continuing  
17 education or competency requirements and other requirements set under this section  
18 for license renewal.

19 (d) In addition to any other qualifications and requirements established by  
20 the Board, the Board may establish continuing education or competency requirements  
21 as a condition of the renewal of a license under this section.

22 (e) **(1)** The Board shall renew the license of each [licensee] **LICENSED**  
23 **POLYSOMNOGRAPHIC TECHNOLOGIST** who meets the requirements of this section.

24 **(2) THE BOARD MAY NOT RENEW THE LICENSE OF A LICENSED**  
25 **POLYSOMNOGRAPHIC TECHNICIAN.**

26 (f) The Board shall reinstate the license of a polysomnographic technologist  
27 who has not placed the license on an inactive status and who has failed to renew the  
28 license for any reason if the polysomnographic technologist:

29 (1) Applies for reinstatement within 30 days after the date the license  
30 expires;

31 (2) Meets the renewal requirements of this section; and

1 (3) Pays to the Board the reinstatement fee set by the Board.

2 14-5C-16.

3 Unless the Board agrees to accept the surrender of a license, a licensed  
4 polysomnographic technologist **OR POLYSOMNOGRAPHIC TECHNICIAN** may not  
5 surrender the license nor may the license lapse by operation of law while the licensee  
6 is under investigation or while charges are pending against the licensee.

7 14-5C-18.

8 (a) Except as provided in subsections (b) and (d) of this section, hospitals,  
9 related institutions, alternative health systems as defined in § 1-401 of this article,  
10 and employers shall file with the Board a report that the hospital, related institution,  
11 alternative health system, or employer limited, reduced, otherwise changed, or  
12 terminated any licensed polysomnographic technologist **OR LICENSED**  
13 **POLYSOMNOGRAPHIC TECHNICIAN** for any reason that might be grounds for  
14 disciplinary action under § 14-5C-17 of this subtitle.

15 (b) A hospital, related institution, alternative health system, or employer  
16 that has reason to know that a licensed polysomnographic technologist **OR LICENSED**  
17 **POLYSOMNOGRAPHIC TECHNICIAN** has committed an action or has a condition that  
18 might be grounds for reprimand or probation of the licensed polysomnographic  
19 technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** or suspension or  
20 revocation of the license because the licensed polysomnographic technologist **OR**  
21 **LICENSED POLYSOMNOGRAPHIC TECHNICIAN** is alcohol impaired or drug impaired  
22 is not required to report the technologist **OR TECHNICIAN** to the Board if:

23 (1) The hospital, related institution, alternative health system, or  
24 employer knows that the licensed polysomnographic technologist **OR LICENSED**  
25 **POLYSOMNOGRAPHIC TECHNICIAN** is:

26 (i) In an alcohol or drug treatment program that is accredited  
27 by the Joint Commission on Accreditation of Healthcare Organizations or is certified  
28 by the Department; or

29 (ii) Under the care of a health care practitioner who is  
30 competent and capable of dealing with alcoholism and drug abuse; and

31 (2) (i) The hospital, related institution, alternative health system,  
32 or employer is able to verify that the licensed polysomnographic technologist **OR**  
33 **LICENSED POLYSOMNOGRAPHIC TECHNICIAN** remains in the treatment program  
34 until discharge; and

35 (ii) The action or condition of the licensed polysomnographic  
36 technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has not caused

1 injury to any person while the technologist **OR TECHNICIAN** is practicing as a licensed  
2 polysomnographic technologist **OR A LICENSED POLYSOMNOGRAPHIC TECHNICIAN**.

3 (c) (1) If the licensed polysomnographic technologist **OR LICENSED**  
4 **POLYSOMNOGRAPHIC TECHNICIAN** enters, or is considering entering, an alcohol or  
5 drug treatment program that is accredited by the Joint Commission on Accreditation  
6 of Healthcare Organizations or that is certified by the Department, the licensed  
7 polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN**  
8 shall notify the hospital, related institution, alternative health system, or employer of  
9 the licensed polysomnographic technologist's **OR LICENSED POLYSOMNOGRAPHIC**  
10 **TECHNICIAN'S** decision to enter the treatment program.

11 (2) If the licensed polysomnographic technologist **OR LICENSED**  
12 **POLYSOMNOGRAPHIC TECHNICIAN** fails to provide the notice required under  
13 paragraph (1) of this subsection, and the hospital, related institution, alternative  
14 health system, or employer learns that the licensed polysomnographic technologist **OR**  
15 **LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has entered a treatment program,  
16 the hospital, related institution, alternative health system, or employer shall report to  
17 the Board that the licensed polysomnographic technologist **OR LICENSED**  
18 **POLYSOMNOGRAPHIC TECHNICIAN** has entered a treatment program and has failed  
19 to provide the required notice.

20 (3) If the licensed polysomnographic technologist **OR LICENSED**  
21 **POLYSOMNOGRAPHIC TECHNICIAN** is found to be noncompliant with the treatment  
22 program's policies and procedures while in the treatment program, the treatment  
23 program shall notify the hospital, related institution, alternative health system, or  
24 employer of the licensed polysomnographic technologist's **OR LICENSED**  
25 **POLYSOMNOGRAPHIC TECHNICIAN'S** noncompliance.

26 (4) On receipt of the notification required under paragraph (3) of this  
27 subsection, the hospital, related institution, alternative health system, or employer of  
28 the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC**  
29 **TECHNICIAN** shall report the licensed polysomnographic technologist's **OR LICENSED**  
30 **POLYSOMNOGRAPHIC TECHNICIAN'S** noncompliance to the Board.

31 (d) A person is not required under this section to make any report that would  
32 be in violation of any federal or state law, rule, or regulation concerning the  
33 confidentiality of alcohol and drug abuse patient records.

34 (e) The hospital, related institution, alternative health system, or employer  
35 shall submit the report within 10 days of any action described in this section.

36 (f) A report made under this section is not subject to subpoena or discovery  
37 in any civil action other than a proceeding arising out of a hearing and decision of the  
38 Board under this title.

1           (g)   (1)   The Board may impose a civil penalty of up to \$1,000 for failure to  
2 report under this section.

3                   (2)   The Board shall remit any penalty collected under this subsection  
4 into the General Fund of the State.

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2011.